

United States
Department of the Interior
Bureau of Land Management

Miles City Field Office

Spring Creek Coal, LLC
Road & Powerline ROW
MTM-103831 & MTM-81815

Environmental Assessment (EA)
DOI-BLM-MT-C020-2013-0069-EA

For Further Information Please Contact:

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BLM



**UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT**

ENVIRONMENTAL ASSESSMENT REVIEW

OFFICE/AREA: Miles City Field Office	DOI-BLM-MT-C020-2013-0069-EA
	DATE POSTED: 01/22/2013
NAME: SCC, LLC Pipeline/Road & Powerline ROW Amendments	DATE DUE: 02/04/2013
SERIAL NO: MTM-81815 (Pipeline/Road) MTM-103831 (Powerline)	FUNDING: Applicant
LOCATION: T8S, R40E, Sec. 34, SE ¹ / ₄ SW ¹ / ₄	COUNTY: Big Horn

ORIGINATOR DATE/INITIALS	TITLE	ASSIGNMENT
Pam Wall 01/22/13 <i>pw</i>	Realty Specialist	Project Coordinator/Lands and Realty

REVIEWERS	TITLE	ASSIGNMENT	DATE/INITIALS
Doug Melton	Archeologist	Cultural/Paleo	01/29/2013 DM Cultural Report MT-020-13-068
Dale Tribby	Lead Wildlife Biologist	Wildlife/T&E	01/30/2013 <i>dct</i>
Shane Findlay	Supervisory Land Use Specialist	Review	SDF 1/31/2013



ENVIRONMENTAL COORDINATOR

2/6/2013

DATE

ENVIRONMENTAL ASSESSMENT

EA NUMBER: DOI-BLM-MT-C020-2013-0069-EA

SERIAL NUMBER: MTM-81815/MTM-103831

PROPOSED ACTION/TITLE TYPE: SCC Pipeline/Road ROW & Powerline ROW Amendments

LOCATION OF PROPOSED ACTION: T8S, R40E, Section 34, SE¼SW¼, PMM, Big Horn County, Montana

PREPARING OFFICE: Miles City Field Office

APPLICANT: Spring Creek Coal, Limited Liability Company

DATE OF PREPARATION: January 22, 2013

CONFORMANCE WITH APPLICABLE LAND USE PLAN: The proposed action is in conformance with the Powder River Resource Area RMP/EIS ROD which was approved on March 15, 1985. On page 4 of the Record of Decision, it states “Rights-of-way applications will continue to be approved on a case-by-case basis with appropriate stipulations. Applicants are encouraged to locate new facilities within existing rights-of-way.” The proposed action has been reviewed for conformance with this plan and its terms and conditions as required by 43 CFR 1610.5.

PURPOSE AND NEED: Spring Creek Coal, Limited Liability Company (SCC) proposes to amend their existing Title V FLPMA powerline right-of-way (ROW), MTM-103831, to construct an electrical line across federal BLM administered lands in the SE¼SW¼, Section 34, T8S, R40E to provide power to a new coal mine water supply well, TR-2, to be located in the NE¼NW¼, Section 3, T9S, R40E. They also propose to amend their existing Title V FLPMA water pipeline and road ROW, MTM-81815, to include a 10-inch buried water High-Density Polyethylene (HDPE) pipeline and an all-weather road on the same tract in Section 34 in support of the well. Water well TR-2 was originally proposed to be located in the SW¼NW¼, Section 34, T8S, R40E. The relocation of the well site required the associated powerline, water pipelines, and road to be extended, therefore resulting in these proposed amendments. The proposed water well is critical for SCC’s dust suppression requirements and no other large-volume water source has been identified. The purpose of this action is to authorize SCC to establish an all-weather access road on top of the proposed buried water pipeline and to place an up to 24” HDPE pipe on the surface adjacent to the constructed road to convey water during construction and peak summertime use periods. This would necessitate ROW grant MTM-81815 being amended to extend the sixty-foot wide ROW an additional 1,400 feet across federal Bureau of Land Management (BLM) administered land. This action would also authorize SCC to install an overhead powerline on the same tract of federal land basically following the same route as the waterline/road ROW. ROW MTM-103831 would be amended to authorize an additional 1,400 feet of 60-foot ROW for the powerline to provide power to coal mine water supply well TR-2. The water lines would be extended to this new well site and would provide water for dust suppression in support of mining and exploration of federally owned coal reserves associated with federal coal leases issued to SCC, serialized as MTM-88405, MTM-94378 and MTM-069782. The proposed well replaces an older in-pit scoria well drilled in an area mined-out and reclaimed by Decker Coal. Without access, waterlines, or power, the new mine well cannot function to supply water required for dust-suppression to meet Air Quality Standards.

PROPOSED ACTION: The affected federal BLM administered land is located in T8S, R40E, Section 34, SE¼SW¼, P.M.M., Big Horn County, Montana. The proposed route is within the West Decker Mine Permit Boundary between the existing eastern extent of the West Decker Mine pit and Spring Creek’s railroad spur and Montana State Highway 314. The proposed project route is located within a heavily used transportation and utility corridor and most of it has been previously disturbed. The project will also cross Decker Coal Company’s surface under a mutual use agreement between Decker Coal and Spring Creek Coal. Decker Coal Company cooperated in the development of the plan of development for this project. Spring Creek’s Mine Permit C 1979012, issued by the Montana Department of Environmental Quality, would be revised to include any facilities constructed under ROW grants issued to SCC by the BLM. The general public is restricted from access to all areas within the Decker and Spring Creek Coal Mine Permits for safety reasons. The proposed action is to amend SCC’s Title V FLPMA ROW

MTM-81815, which was issued across BLM administered land in T8S, R40E, Section 28, SE $\frac{1}{4}$ SE $\frac{1}{4}$, for a buried six-inch water pipeline and amended in July of 2012 to allow SCC to establish an all-weather access road along the pipeline route and to place a 12" poly pipe above ground on the edge of the constructed road to convey water during peak summertime use periods. ROW grant MTM-81815 would be amended to allow SCC to extend the buried water pipeline (with ten-inch HDPE pipe), the all-weather access road, and the above ground pipeline (with up to 24-inch HDPE pipe) across federal BLM administered land in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 34, T8S, R40E. The above ground pipe may be buried at some time in the future if needed but would be within the approved ROW area. The amendment to ROW grant MTM-81815 would also allow SCC to replace the authorized 12-inch pipe with up to 24-inch pipe in Section 28, SE $\frac{1}{4}$ SE $\frac{1}{4}$. This would be the only change to the ROW in Section 28. The amendment to ROW MTM-81815 in Section 34 would include an additional 1,400 feet in length and be 60 feet wide, consisting of an additional 1.93 acres, more or less (see attached map - MTM-81815 route in red). This proposed action would also amend Title V FLPMA ROW MTM-103831, which was issued to SCC in July 2012, to authorize the installation of an overhead 34.5 kV three-phase powerline in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 28, T8S, R40E. The amendment to powerline ROW MTM-103831 would cross the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 34, T8S, R40E, for an additional 1,400 feet in length and it would be 60 feet wide, consisting of 1.93 acres, more or less (see attached map - MTM103831 route in blue).

Construction and rehabilitation of the additional road and pipelines on ROW MTM-81815 and of the additional powerline on ROW MTM-103831 would be completed in conformance with SCC's application and plan of development (POD) which can be found in the casefiles, and in accordance with their mining permit C 1979012.

A Cultural Resource Inventory was conducted by Dave Ferguson of GCM Services for both ROW projects during clear field conditions in December 2012.

For the amendment to ROW grant MTM-81815, the 10" HDPE pipe would be buried, using a trencher/trackhoe, to a depth of between 4 to 6 feet. The trench would be backfilled and the topsoil replaced, drainage ditches constructed, and seeded as part of the road construction above it. SCC would construct the road by using a road grader/scrapper to salvage residual topsoil followed by grading with a road grader to a uniform 14' wide driving surface. The surface would be compacted and topped with 4-6" crushed gravel or scoria. An additional 4' width of graded area running adjacent to the improved driving surface would be cleared to provide surface area for a temporary up to 24" water pipeline to convey water during construction and peak summertime use periods. Drainage ditches constructed with 2:1 side slopes would protect the road from erosional washout and adjacent native areas from sediment washing off the road bed. These drainage ditches would be reclaimed and seeded in accordance with the Spring Creek Coal LLC mining permit C 1979012.

The up to 24" pipeline would initially be located on the surface along the road but may be buried at a later time. The up to 24" HDPE pipe would be placed on a 4' graded surface adjacent to the improved road bed to provide for additional seasonal water demand during both construction and possible long-term needs. Water sources for this pipeline may include Decker Pit water, as well as, TR-2 well water and flood share rights from Tongue River Reservoir. Should the water supply anticipated by construction of the TR-2 well be sufficient to provide a year-round supply, the proposed larger diameter pipe would be buried, using a trencher/trackhoe, to a depth of 4-6 feet. Re-disturbance and additional disturbance beyond the original 4' width of graded surface is anticipated. The trench would be backfilled, topsoil replaced, drainage ditches reestablished and seeded and reclaimed in accordance with the SCC mining permit C 1979012.

The powerline would consist of pole-mounted, #4 cable conductor capable of providing 34.5 kV 3-phase power to the TR-2 Water Well site. The power poles would be spaced approximately 250-300 feet apart; this would require 6-8 poles to be erected within the ROW area. No transformers or substations would be required within the ROW area. Construction activities would commence with staking the power pole locations. Following staking, all poles, cross arms, and hardware would be delivered to the pole sites. Holes would be drilled at the staked locations by an auger truck. Cross arms would be attached to the poles before installing them in the drilled holes. The powerline would be of raptor-proof construction meeting the requirements and in accordance with guidelines set forth in "Suggested Practices for Raptor Protection of Power Lines: The State of the Art in 1996 (Avian Power Line Interaction

Committee, 1996). No site clearing or topsoil removal would be necessary. Construction activities would cease if precipitation occurs and would not resume until the ground is sufficiently dry to eliminate surface damage by construction equipment. No known hazardous materials would be used during construction or at any time on the ROW area. Once constructed, the powerline would require minimal expenditures for operation and maintenance. Periodic inspections would be conducted by SCC LLC to insure the line's structural integrity and that line sag remains acceptable. Termination activities on the Federal surface would be conducted in much the same manner as construction activities. Access would be available along the same route. All poles, conductors, anchors and other miscellaneous materials would be removed and disposed of in a licensed landfill. All drill holes would be backfilled and the adjacent areas reclaimed and seeded in accordance with the Spring Creek Coal Mining Permit C 1979012.

The environmental impacts associated with this proposal would be along the existing eastern extent of the mine pit at the West Decker Mine and the heavily utilized transportation and utility corridor including other powerlines, a buried telephone cable, the Spring Creek Railroad spur, and Montana State Highway 314. Complete Environmental Impacts have been analyzed on numerous occasions for both mining operations and are summarized in the State and Federal mining permits held by each operator. All construction and reclamation associated with the proposed activities must be completed in accordance to MDEQ and OSM/SMCRA requirements as described and approved under Spring Creek Coal LLC's current Mining Permit C 1979012.

SCC anticipates initial use of the ROW lands for access and pipeline and powerline installation to begin as soon as ROWs can be obtained from BLM and permits obtained from the State. Production from the water well and associated service access would continue throughout the life of the mine and possibly through a period of reclamation. The amendment to ROW MTM-81815 would terminate on its current expiration date of December 31, 2037 and would be renewable. The amendment to ROW MTM103831 would terminate on its current expiration date of December 31, 2032 and would be renewable thereafter for 10-year terms as necessary. Under the Mine Plan currently proposed, End of Mine is anticipated to be 2030 with reclamation to continue in the area until 2035. Use of the subject lands would continue through at least 2035-2040.

The standard stipulations for cultural and/or paleontological resource protection and hazardous materials stipulation would be made a part of the amended ROW Grants MTM-81815 and MTM-103831, as would the standard stipulation that all activities associated with the ROWs would be conducted within the authorized limits of the grants. There would be no construction or routine maintenance when the soils are too wet. The applicant would be responsible for weed control on disturbed areas within the limits of the ROWs and for coordinating with parties holding authorized rights on the adjacent and affected lands [such as the grazing permittee/lessee and other ROW holders]. Topsoil would be conserved and reused in reclamation. Only the minimum amount of vegetation would be removed and the appropriate seed mix would be used for reclamation. The project would be completed in compliance with the applicant's application/plan of development and MT DEQ and OSM/SMCRA requirements as described and approved under Spring Creek Coal LLC's current Mining Permit C 1979012. On the powerline the company shall comply with raptor protection guidelines found in the "Suggested Practices for Raptor Protection on Power Lines: The State of the Art in 1996", as amended in 2006. The road shall be constructed with safe and proven engineering practices as stated in BLM Manual 9113-Road Standards (See:

http://www.blm.gov/pgdata/etc/medialib/blm/mt/blm_programs/energy/oil_and_gas/operations/gold_book.Par.10040.File.dat/9113.pdf . Ninety days prior to termination of the ROWs, the holder shall contact the authorized officer to arrange a joint inspection of the ROWs and to agree on an acceptable termination (and rehabilitation) plan. The ROWs would be granted pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (90Stat. 2776; 43 U.S.C. 1761) and be subject to the terms and conditions in 43 CFR 2800 and to the attached stipulations and the applicant's POD. SCC LLC is subject to processing and monitoring fees, as provided for by regulations found at 43 CFR 2804.14 and 2805.16 and subject to paying rental as provided for by regulations found at 43 CFR 2806. The ROWs would be monitored for use and before renewal or closure.

ALTERNATIVE 1 - NO ACTION: Under the No Action Alternative, BLM would not issue the ROW amendments, leaving SCC LLC to find a new water source or way to obtain the water from the proposed new well if they are to stay in conformance with Air Quality Standards.

AFFECTED ENVIRONMENT:

The following critical resources have been evaluated and are not affected by the proposed action or the alternatives in this EA:

Mandatory Item	Potentially Impacted	No Impact	Not Present On Site
Threatened and Endangered Species			X
Floodplains		X	
Wilderness Values			X
ACECs			X
Water Resources (drinking/ground/surface)		X	
Air Quality		X	
Cultural or Historical Values		X	
Prime or Unique Farmlands			X
Wild & Scenic Rivers			X
Wetland/Riparian			X
Native American Religious Concerns		X	
Wastes, Hazardous or Solids		X	
Invasive, Nonnative Species		X	
Environmental Justice		X	

The following non-critical resources will not be impacted by this proposed action; therefore they will not be analyzed in detail by this Environmental Assessment: Soils, Fire, Geology, Minerals, Livestock Grazing, Vegetation, Forestry, Noise, Recreation, VRM, Socio-Economics, and Wild Horse/Burro.

Cultural/Paleontological Resources:

Cultural: The location of the proposed undertaking was examined for potential impacts to cultural resources by GCM Services of Butte, Montana. The company found that almost of all of the area had been disturbed by mining activities, a railroad, and a existing powerline. All of these had been inventoried as part of mining activities. The only intact portion not previously disturbed was examined for cultural resources. No cultural resources were reported in the approximately 2 .0 acres inventoried (See BLM Cultural Resources Report MT-020-13-068). Based on the inventory results and previous disturbance, BLM has determined that the project would have no effect on cultural properties listed on or eligible for listing on the National Register of Historic Places.

Paleontology: The undertaking will be located within the Tertiary Tongue River member of Fort Union formation. This formation has been rated 3a in the Potential Fossil Yield Classification (PFYC) System for Paleontological Resources on Public Lands. Formations with a Class 3a rating have only a moderate Potential to yield vertebrate fossils. As a result, no paleontological survey would be necessary. The cultural survey of the area did not locate or identify any surface exposures of the underlying geologic formation and review of the Miles City Field Office's RMP Class I Paleontological Database did not indicate any paleontological localities having been located in the project's vicinity.

Lands/Realty: The affected federal BLM administered land is located in T8S, R40E, Section 34, SE¼SW¼, and the proposed project is located along the existing eastern extent of the mine pit at the West Decker Mine and within the heavily utilized transportation and utility corridor including other powerlines, a buried telephone line, the Spring Creek Railroad spur and Montana State Highway 314. The general public is restricted from access to all areas within the Decker and Spring Creek Coal Mine Permits for safety purposes. The existing authorized ROW found on the tract are: 1) Range Telephone Coop.'s buried communication line authorized by ROW MTM-59032; 2) Powder River Electric, Coop.'s overhead powerline authorized by ROW MTM-42519; 3) SCC's Railroad Spur authorized by ROW MTM-42398; Montana Department of Transportation's Highway 314 authorized by ROW MTM-42817. Montana Department of Natural Resources and Conservation also holds ROW MTM-87571 on a portion of the tract

for a flood easement and wetland mitigation for the Tongue River Reservoir, the proposed project is not within the area of this ROW. The tract of land is also within the boundary of the Withdrawal for Reservoir Site 20, but does not affect this withdrawal.

Wildlife: The project area is potential habitat for several species of wildlife, including but not limited to mule and whitetail deer, pronghorns, wild turkeys, sharp-tailed and sage grouse, various raptors and numerous smaller mammals. In addition there is habitat to support a variety of neo-tropical birds, all of which are protected via the Migratory Bird Treaty Act. Some species such as lark buntings, chestnut-collared longspurs, mountain plovers, northern shrike, Brewer's sparrow and sage-grouse are BLM designated special status species. Due to the heavy vehicle traffic currently occurring along the ROW route, it would be expected most neo-tropical birds with low tolerance to disturbance nest in areas with less or no disturbance. Research has shown the BLM Special Status Species do avoid disturbance, such as roads when selecting nest sites. There is no known or expected habitat for any threatened or endangered species. A sharp-tailed grouse dancing ground is located within feet of the northwest corner of this 40 acre parcel. No activity has been documented for at least 10 years. In addition, an osprey nest is known to occur in the NW¼ of this parcel. Ospreys are generally tolerant to disturbance; however disturbance with the trenching of a pipeline and the installation of a powerline could be more disturbance than what the birds will tolerate. Again, with the heavy current truck traffic in this area, it is not anticipated the additional construction activity will impact established osprey nest sites. The entire 40 acre BLM parcel is identified crucial whitetail deer winter range and crucial mule deer winter range is found adjacent to the BLM land. With the railroad, mine road and associated activity, construction and use of this area will have minimal impact on wintering whitetail deer. All this being said, since the project site is within an area of active mining the amount and diversity of wildlife occupying this site is likely reduced to a fraction of what was present prior to disturbance. Sage-grouse are well known for avoiding disturbance and recent surveys by SCC wildlife consultant have not identified sage-grouse in the project area.

ENVIRONMENTAL IMPACTS:

DESCRIPTION OF IMPACTS FROM PROPOSED ACTION:

Cultural/Paleontological Resources:

No cultural or paleontological resources would be impacted or affected by the proposed action. Unanticipated discoveries of cultural resources located during construction would be handled through the Cultural/Paleo Stipulation attached to the ROW grant.

Lands/Realty: Spring Creek Coal, Limited Liability Company's (SCC) existing Title V FLPMA powerline right-of-way (ROW), MTM-103831, would be amended to allow them to construct an electrical line across federal BLM administered lands in the SE¼SW¼, Section 34, T8S, R40E to provide power to a new coal mine water supply well, TR-2, to be located in the NE¼NW¼, Section 3, T9S, R40E. SCC's existing Title V FLPMA water pipeline and road ROW, MTM-81815, would also be amended to include a 10-inch buried and an above ground up to 24-inch (to possibly be buried at a later time) water HDPE pipeline and an all-weather road on the same tract in Section 34. The amendment to SCC's ROW MTM-81815 would also allow SCC to replace the authorized 12-inch pipe with up to 24-inch pipe in Section 28, SE¼SE¼.

Wildlife: Removal and/or long term (>10 years) change of the vegetation associated with the right-of-way will have a limited impact on wildlife occupying the site. The sagebrush within the project area provides nesting habitat for a multitude of neo-tropical birds. Removal and replacement of this vegetation and the associated disturbance associated with vehicle traffic on the all-weather road will likely result in some nesting birds to seek areas of less disturbance. Some smaller mammals such as mice, voles and gophers would be lost during road or pipeline installation/construction. Again, with the level of disturbance already present this impact will be minimal. Some species of wildlife will avoid tall structures such as powerlines and collisions between birds and overhead and/or guy wires could occur. Nesting ospreys could abandon their nest due to disturbance resulting from construction activities.

DESCRIPTION OF IMPACTS FROM ALTERNATIVE 1 - NO ACTION:

Lands/Realty: Under the No Action Alternative, BLM would not issue the ROW amendments; leaving SCC LLC to find a new water source or way to obtain the water from the proposed new well if they are to stay in conformance with Air Quality Standards.

Wildlife: Because of the altered state of this area resulting from existing mine activity, little impact other than that associated with construction would be minimal.

CUMULATIVE IMPACTS: There would be no cumulative impacts.

MITIGATION: The ROW would be subject to the terms and conditions in 43 CFR 2800 and the stipulations listed below.

CONSULTATION/COORDINATION:

Julie Gerlach, Aqua Terra Consultants, Inc.
Lori Badgett, Aqua Terra Consultants, Inc.
Gabe Johnson, SCC LLC

LIST OF PREPARERS:

Doug Melton, Archaeologist, BLM
Dale Tribby, Lead Wildlife Biologist, BLM
Shane Findlay, Supervisory Land Use Specialist, BLM
Pam Wall, Realty Specialist, BLM

**UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
MILES CITY FIELD OFFICE
FINDING OF NO SIGNIFICANT IMPACT**

**SCC, LLC Pipeline/Road ROW & Powerline ROW Amendments
DOI-BLM-MT-C020-2013-0069-EA**

BACKGROUND

The origin of the environmental assessment was due to a request from Spring Creek Coal, Limited Liability Company (SCC) to amend their existing Title V FLPMA powerline right-of-way (ROW), MTM-103831, to construct an electrical line across federal BLM administered lands in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 34, T8S, R40E to provide power to a new coal mine water supply well, TR-2, to be located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 3, T9S, R40E. They also proposed to amend their existing Title V FLPMA water pipeline and road ROW, MTM-81815, to include a 10-inch buried water High-Density Polyethylene (HDPE) pipeline, an above ground up to 24-inch HDPE pipeline, and an all-weather road on the same tract in Section 34 in support of the well. Water well TR-2 was originally proposed to be located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 34, T8S, R40E. The relocation of the well site required the associated powerline, water pipelines, and road to be extended, therefore resulting in these proposed amendments.

FINDING OF NO SIGNIFICANT IMPACT

On the basis of the information contained in the EA (DOI-BLM-MT-C020-2013-0069-EA), and all other information available to me, it is my determination that:

- (1) The implementation of the Proposed Action or alternatives will not have significant environmental impacts beyond those already addressed in the Powder River Resource Management Plan which was approved on March 15, 1985.
- (2) The Proposed Action is in conformance with the Record of Decision for the Powder River Resource Management Plan (PRRMP) as amended; and
- (3) The Proposed Action does not constitute a major federal action having a significant effect on the human environment.

Therefore, an environmental impact statement or a supplement to the existing environmental impact statement is not necessary and will not be prepared.

This finding is based on my consideration of the Council on Environmental Quality's (CEQ) criteria for significance (40 CFR '1508.27), both with regard to the context and to the intensity of the impacts described in the EA.

Context

The proposed action is a site specific action which would occur on federal BLM administered surface in Big Horn County which is designated as available for issuance of ROW proposals in the Powder River Resource Management Plan, as amended. The Powder River RMP anticipated that ROW applications would continue to be approved and it states on page 4 of the Record of Decision that "all right-of-way (R/W) applications will continue to be approved on a case-by-case basis with appropriate stipulations." The proposed action is in accordance with the Powder River RMP.

Under the proposed action SCC's Title V FLPMA ROW MTM-81815, which was issued across BLM administered land in T8S, R40E, Section 28, SE $\frac{1}{4}$ SE $\frac{1}{4}$, for a buried six-inch water pipeline and amended in July of 2012 to allow SCC to establish an all-weather access road along the pipeline route and to place a 12" poly pipe above ground on the edge of the constructed road to convey water during peak summertime use periods would be amended. ROW grant MTM-81815 would be amended to allow SCC to extend the buried water pipeline (with ten-inch HDPE pipe), the all-weather access road, and the above ground pipeline (with up to 24-inch HDPE pipe) across federal BLM

administered land in the SE¼SW¼, Section 34, T8S, R40E. The above ground pipe may be buried at some time in the future if needed but would be within the approved ROW area. The amendment to ROW grant MTM-81815 would also allow SCC to replace the authorized 12-inch pipe with up to 24-inch pipe in Section 28, SE¼SE¼. This would be the only change to the ROW in Section 28. The amendment to ROW MTM-81815 in Section 34 would include an additional 1,400 feet in length and be 60 feet wide, consisting of an additional 1.93 acres, more or less (see attached map - MTM-81815 route in red). This proposed action would also amend Title V FLPMA ROW MTM-103831, which was issued to SCC in July 2012, to authorize the installation of an overhead 34.5 kV three-phase powerline in the SE¼SE¼, Section 28, T8S, R40E. The amendment to powerline ROW MTM-103831 would cross the SE¼SW¼, Section 34, T8S, R40E, for an additional 1,400 feet in length and it would be 60feet wide, consisting of 1.93 acres, more or less (see attached map – MTM103831 route in blue).

SCC anticipates initial use of the ROW lands for access and pipeline and powerline installation to begin as soon as ROWs can be obtained from BLM and permits obtained from the State. Production from the water well and associated service access would continue throughout the life of the mine and possibly through a period of reclamation. The amendment to ROW MTM-81815 would terminate on its current expiration date of December 31, 2037 and would be renewable. The amendment to ROW MTM103831 would terminate on its current expiration date of December 31, 2032 and would be renewable thereafter for 10-year terms as necessary. Under the Mine Plan currently proposed, End of Mine is anticipated to be 2030 with reclamation to continue in the area until 2035. Use of the subject lands would continue through at least 2035-2040.

SCC LLC is subject to processing and monitoring fees, as provided for by regulations found at 43 CFR 2804.14 and 2805.16 and subject to paying rental as provided for by regulations found at 43 CFR 2806. The ROWs would be monitored for use and before renewal or closure.

Intensity

I have considered the potential intensity/severity of the impacts anticipated from the proposed action and all alternatives relative to each of the ten areas suggested for consideration by the CEQ.

1. Impacts that may be both beneficial and adverse. The DOI-BLM-MT-C020-2013-0069-EA considered both potential beneficial and adverse effects. The proposed project would impact resources as described in the EA. In addition to mitigation measures included in the project design, BLM developed additional mitigation measures to further minimize or eliminate adverse impacts to other resources and land uses. These additional mitigation measures are identified in the proposed action and are attached to this document as ROW Stipulations. The EA also disclosed beneficial impacts from the proposed project to provide SCC an opportunity to construct and access road, install pipelines and install a powerline to support a water well which will provide water for dust abatement as require by SCC's mine permit and to meet Air Quality standards, in support of mining federal coal. None of the environmental effects discussed in detail in the EA are considered significant, nor do the effects exceed those described in the Powder River Resource Area Management Plan, as amended.

2. The degree to which the proposed action affects public health and safety. The proposed action will reduce dust from mining allowing SCC to meet Air Quality Standards and protect the public from the effects of dust from the coal mining.

3. Unique characteristics of the geographic area such as proximity of historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas. There are no known historic or cultural resource sites, or paleontological localities that would be affected by the proposed action. An inventory of undisturbed lands in the project area did not locate any cultural or paleontological materials (See Report number listed in the EA). Discoveries of cultural materials during construction would be handled through implementation of the Cultural/Paleo stipulation attached to the ROW grant. There are no parks, prime farmlands, or wild and scenic rivers in the planning area.

4. The degree to which the effects on the quality of the human environment are likely to be highly controversial. “Highly controversial” in the context of 40 CFR 1508.27(b)(4), refers to substantial disagreement within the scientific community about the environmental effects of a proposed action. No unique or appreciable scientific controversy has been identified regarding the effects of the Proposed Action.

5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks. The analysis has not shown that there would be any unique or unknown risks to the human environment.

6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration. This project neither establishes a precedent nor represents a decision in principle about future actions. The proposed action is consistent with actions appropriate for the area as designated by the Powder River RMP, as amended.

7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. The environmental analysis did not reveal any cumulative effects beyond those already analyzed in the EISs which accompanied the Powder River RMP, as amended.

8. The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historic resources. The proposed action will not adversely affect any district, site, highway, structure, or object listed or eligible for listing in the National Register of Historic Places or cause loss or destruction of significant scientific, cultural or historic resources. There were no cultural resources recorded during the inventory of the SCC proposed project area.

9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973. There are no threatened or endangered species or habitat in the area of the proposed action. There are no threatened or endangered plant species or habitat in the area.

10. Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment. The proposed action does not threaten to violate any Federal, State, or local law. It is also consistent with applicable land management plans, policies, and programs and in conformance with the Powder River Resource Management EIS/ROD.



Todd D. Yeager
Field Manager
Miles City Field Office

02/06/2013

Date

**UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
MILES CITY FIELD OFFICE
DECISION RECORD
SCC, LLC Pipeline/Road ROW & Powerline ROW Amendments
DOI-BLM-MT-C020-2013-0069-EA
DECISION**

It is my decision to select the Proposed Action Alternative as described in the Spring Creek Coal, LLC Pipeline/Road ROW & Powerline ROW Amendment EA [DOI-BLM-MT-C020-2013-0069-EA]. The EA and the FONSI analyzed the selected alternative and found no significant impacts. Implementation of this decision will result in the amendment of SCC's Title V FLPMA powerline ROW MTM-103831 and water pipeline and road ROW MTM-81815 to be extended across federal BLM administered land in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 34, T8S, R40E, P.M.M., in Big Horn County, Montana. Under the amendment to 60-foot wide ROW grant MTM-81815, SCC will extend the buried water pipeline (with ten-inch HDPE pipe), the all-weather access road, and the above ground pipeline (with up to 24-inch HDPE pipe) an additional 1,400 feet in length, including an additional 1.93 acres, more or less, to be added the ROW grant. The above ground pipe may be buried at some time in the future if needed but would be within the approved ROW area. The amendment to ROW grant MTM-81815 will also allow SCC to replace the authorized 12-inch pipe with up to 24-inch pipe in T8S, R40E, Section 28, SE $\frac{1}{4}$ SE $\frac{1}{4}$. This is the only change to the portion of the ROW in Section 28. The amendment to ROW MTM-81815 in Section 34 will include an additional 1,400 feet in length and be 60 feet wide, consisting of an additional 1.93 acres, more or less. The amendment to 60-foot wide powerline ROW grant MTM-103831 will allow SCC to extend the overhead 34.5 kV three-phase powerline an additional 1,400 feet, including an additional 1.93 acres, more or less, to the grant. The selected alternative is in conformance with the Powder River Resource Management Plan, as amended. The amendment to ROW MTM-81815 will terminate on its current expiration date of December 31, 2037 and will be renewable. The amendment to ROW MTM103831 will terminate on its current expiration date of December 31, 2032 and will be renewable thereafter for 10-year terms as necessary.

ALTERNATIVES

In addition to the selected alternative, the EA considered the "No Action" alternative which would not authorize any actions on BLM administered lands.

RATIONALE FOR SELECTION

The purpose of this action is to authorize Spring Creek Coal to establish an all-weather access road on top of a proposed buried water pipeline and to place an up to 24" HDPE pipe on the surface adjacent to the constructed road to convey water during construction and peak summertime use periods. This will necessitate ROW grant MTM-81815 being amended to extend the sixty-foot wide ROW an additional 1,400 feet across federal BLM administered land in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 34, T8S, R40E, P.M.M., in Big Horn County, Montana. This action will also authorize SCC to install an overhead powerline on the same tract of federal land basically following the same route as the waterline/road ROW. ROW MTM-103831 will be amended to authorize an additional 1,400 feet of 60-foot wide ROW for the powerline to provide power to a new coal mine water supply well TR-2 in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 3, T9S, R40E. The power and water lines will be extended to this new well site to provide water for dust suppression in support of mining and exploration of federally owned coal reserves associated with federal coal leases issued to SCC, serialized as MTM-88405, MTM-94378 and MTM-069782. The new well replaces an older in-pit scoria well drilled in an area mined-out and reclaimed by Decker Coal. Without access, waterlines, or power, the new mine well cannot function to supply water required for dust-suppression to meet Air Quality Standards.

The ROW grants will be amended pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (90Stat. 2776; 43 U.S.C. 1761) and be subject to the terms and conditions in 43 CFR 2800 and to the attached stipulations. ROW grant MTM-81815 will terminate on its current expiration date of December 31, 2037

and will be renewable. ROW grant MTM103831 will terminate on its current expiration date of December 31, 2032 and will be renewable thereafter for 10-year terms as necessary. Under the Mine Plan currently proposed, End of Mine is anticipated to be 2030 with reclamation to continue in the area until 2035. Use of the subject lands would continue through at least 2035-2040. SCC LLC is subject to processing and monitoring fees, as provided for by regulations found at 43 CFR 2804.14 and 2805.16 and subject to paying rental as provided for by regulations found at 43 CFR 2806. The ROWs will be monitored for use and before renewal or closure.

CONSULTATION AND COORDINATION

Julie Gerlach and Lori Badgett, Aqua Terra Consultants, Inc. and Gabe Johnson, SCC LLC, were consulted. The following BLM specialists were consulted and involved in the preparation of the EA: Doug Melton, Archaeologist, BLM; Dale Tribby, Lead Wildlife Biologist, BLM; Shane Findlay, Supervisory Land Use Specialist, BLM; Pam Wall, Realty Specialist, BLM. The SCC, LLC Pipeline/Road ROW & Powerline ROW Amendment DOI-BLM-MT-C020-2013-0069-EA was made available online via the Miles City Field Office NEPA log.

IMPLEMENTATION

Once the SCC LLC's ROW EA, FONSI, and Decision Record are approved, water pipeline/road ROW grant MTM-81815 will be amended to allow SCC to extend the buried ten-inch HDPE pipe and above ground up to 24-inch HDPE pipe, and all-weather access road across federal BLM administered land in T8S, R40E, Section 34, SE¼SW¼ to facilitate the conveyance of water during peak summertime use and construction and to eventually bury the up to 24-inch pipe. MTM-103831 will be amended to allow SCC authorizing to extend the overhead 34.5kV powerline across the same tract of federal land as described in the EA. The amendments will be effective immediately and will be subject to the terms and conditions in 43 CFR 2800 and the stipulations identified in the EA. Actions may begin immediately in accordance with any restrictions or constraints imposed by the grant and stipulations. The ROWs will be monitored for maintenance, use, and termination.

ADMINISTRATIVE REVIEW OPPORTUNITIES

A BLM decision to issue or amend a ROW may be appealed under regulations in 43CFR 2801.10, in accordance with part 4 of 43 CFR. A BLM decision affecting a ROW application carries the "full force and effect" of the decision. Under full force and effect the decision can be implemented immediately even if the decision is appealed to the IBLA. An affected party has the opportunity to file a petition for a stay with an appeal to the IBLA. The decision to issue a ROW in full force and effect requires information on petitions for stay to be included with the decision notification. The decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and information on BLM Form 1842-1. If an appeal is taken, the notice of appeal must be filed in the Miles City Field Office at 111 Garryowen Road, Miles City, Montana 59301 within 30 days from receipt of the decision issuing the decision with a copy of the notice of appeal sent to the Office of the Field Solicitor, U.S. Department of Interior, P. O. Box 31394, Billings, Montana 59107-1394. The appellant has the burden of showing that the decision appealed from is in error.

If a petition (request) is filed pursuant to regulation 43 CFR 2801.10 for a stay (suspension) of the effectiveness of the decision during the time that the appeal is being reviewed by the Board, the petition for a stay must accompany the notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in the decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with the Miles City Field Office. If a stay is requested, the requester has the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.



Todd D. Yeager
Field Manager
Miles City Field Office

02/06/2013
Date

MITIGATION MEASURES/REMARKS:

The SCC Amendment to ROW grant MTM-81815 will be issued under the authority of Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761) and subject to the terms and conditions in 43 CFR 2800, the application, mitigations as mentioned in the plan of development, and subject to the following stipulations:

STIPULATIONS:

- a. This grant is issued subject to the holder's compliance with the mitigations set forth in the application/plan of development.
- b. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.
- c. The holder shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder(s) shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.) with regard to any toxic substances that are used, generated by or stored on the right-of-way or on facilities authorized under this right-of-way grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency or State government.
- d. The holder shall conduct all activities associated with the construction, operation, and termination of the right-of-way within the authorized limits of the right-of-way.
- e. No construction or routine maintenance activities shall be performed during periods when the soil is

too wet to adequately support construction equipment. If such equipment creates ruts in excess of four (4) inches deep, the soil shall be deemed too wet to adequately support construction equipment.

- f. Holder shall remove only the minimum amount of vegetation necessary for the construction of structures and facilities. Topsoil shall be conserved during excavation and reused as cover on disturbed areas to facilitate regrowth of vegetation.
- g. The holder shall seed all disturbed areas, using an agreed upon method suitable for the location. Seeding shall be repeated if a satisfactory stand is not obtained as determined by the authorizing officer upon evaluation after one growing season. [Reclamation and seeding will be completed in accordance to MT DEQ and OSM/SMCRA requirements as described and approved under Spring Creek Coal LLC's current Mining Permit C 1979012.]
- h. All road operation, maintenance, reconstruction, design, material, and termination practices shall be in accordance with safe and proven engineering practices as stated in BLM Manual 9113- Road Standards.
- i. The holder shall be responsible for weed control on disturbed areas within the limits of the right-of-way. The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods (within the limits imposed in the grant stipulations).
- j. In the event that the public land underlying the right-of-way (ROW) encompassed in this grant, or a portion thereof, is conveyed out of Federal ownership and administration of the ROW or the land underlying the ROW is not being reserved to the United States in the patent/deed and/or the ROW is not within a ROW corridor being reserved to the United States in the patent/deed, the United States waives any right it has to administer the right-of-way, or portion thereof, within the conveyed land under Federal laws, statutes, and regulations, including the regulations at 43 CFR Part 2800, including any rights to have the holder apply to BLM for amendments, modifications, or assignments and for BLM to approve or recognize such amendments, modifications, or assignments. At the time of conveyance, the patentee/grantee, and their successors and assigns, shall succeed to the interests of the United States in all matters relating to the right-of-way, or portion thereof, within the conveyed land and shall be subject to applicable State and local government laws, statutes, and ordinances. After conveyance, any disputes concerning compliance with the use and the terms and conditions of the ROW shall be considered a civil matter between the patentee/grantee and the ROW Holder.
- k. *The holder shall coordinate with the parties holding authorized rights on the adjacent and affected lands [such as the grazing permittee/lessee and other right-of-way holders].
- l. Ninety days prior to termination of the right-of-way, the holder shall contact the authorized officer to arrange a joint inspection of the right-of-way. This inspection will be held to agree on an acceptable termination (and rehabilitation) plan. This plan shall include, but is not limited to, removal of facilities, drainage structures, or surface material, recontouring, topsoiling, and/or seeding. The authorized officer must approve the plan in writing prior to the holder's commencement of any termination activities.

* This non-standard stipulation was approved by the District Manager, which is the next higher level of Bureau line management, for right-of-way MTM-83461, on September 28, 1994

The SCC amendment to ROW grant MTM-103831 will be issued under the authority of Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761) and subject to the terms and conditions in 43 CFR 2800, the application, mitigations as mentioned in the plan of development, and subject to the following stipulations:

STIPULATIONS:

- a. This grant is issued subject to the holder's compliance with the mitigations set forth in the application/plan of development.
- b. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.
- c. The holder shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder(s) shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.) with regard to any toxic substances that are used, generated by or stored on the right-of-way or on facilities authorized under this right-of-way grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency or State government.
- d. The holder shall conduct all activities associated with the construction, operation, and termination of the right-of-way within the authorized limits of the right-of-way.
- e. No construction or routine maintenance activities shall be performed during periods when the soil is too wet to adequately support construction equipment. If such equipment creates ruts in excess of four (4) inches deep, the soil shall be deemed too wet to adequately support construction equipment.
- f. The holder shall seed all disturbed areas, using an agreed upon method suitable for the location. Seeding shall be repeated if a satisfactory stand is not obtained as determined by the authorizing officer upon evaluation after one growing season. [Reclamation and seeding will be completed in accordance to MT DEQ and OSM/SMCRA requirements as described and approved under Spring Creek Coal LLC's current Mining Permit C 1979012.]
- g. Unless otherwise agreed to by the authorized officer in writing, powerlines shall be constructed in accordance to standards outlined in "Suggested Practices for Raptor Protection on Powerlines," Raptor Research Foundation, Inc., 1981, as amended in 1996 and 2006. The holder shall assume the burden and expense of proving that pole designs not shown in the above publication are "eagle safe." Such proof shall be provided by a raptor expert approved by the authorized officer. The BLM reserves the right to require modifications or additions to all powerline structures placed on this right-of-way,

should they be necessary to ensure the safety of large perching birds. Such modifications and/or additions shall be made by the holder without liability or expense to the United States.

- h. The holder shall be responsible for weed control on disturbed areas within the limits of the right-of-way. The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods (within the limits imposed in the grant stipulations).
- i. In the event that the public land underlying the right-of-way (ROW) encompassed in this grant, or a portion thereof, is conveyed out of Federal ownership and administration of the ROW or the land underlying the ROW is not being reserved to the United States in the patent/deed and/or the ROW is not within a ROW corridor being reserved to the United States in the patent/deed, the United States waives any right it has to administer the right-of-way, or portion thereof, within the conveyed land under Federal laws, statutes, and regulations, including the regulations at 43 CFR Part 2800, including any rights to have the holder apply to BLM for amendments, modifications, or assignments and for BLM to approve or recognize such amendments, modifications, or assignments. At the time of conveyance, the patentee/grantee, and their successors and assigns, shall succeed to the interests of the United States in all matters relating to the right-of-way, or portion thereof, within the conveyed land and shall be subject to applicable State and local government laws, statutes, and ordinances. After conveyance, any disputes concerning compliance with the use and the terms and conditions of the ROW shall be considered a civil matter between the patentee/grantee and the ROW Holder.
- j. *The holder shall coordinate with the parties holding authorized rights on the adjacent and affected lands [such as the grazing permittee/lessee and other right-of-way holders].
- k. Ninety days prior to termination of the right-of-way, the holder shall contact the authorized officer to arrange a joint inspection of the right-of-way. This inspection will be held to agree on an acceptable termination (and rehabilitation) plan. This plan shall include, but is not limited to, removal of facilities, drainage structures, or surface material, recontouring, topsoiling, and/or seeding. The authorized officer must approve the plan in writing prior to the holder's commencement of any termination activities.

* This non-standard stipulation was approved by the District Manager, which is the next higher level of Bureau line management, for right-of-way MTM-83461, on September 28, 1994

